



ENVIRONMENTAL PROTECTION AGENCY

[FRL- 9904-13-Region-3]

Adequacy Status of the Submitted Attainment Plan for the Delaware Portion of the Philadelphia-Wilmington-New Jersey 1997 Fine Particulate Matter National Ambient Air Quality Standard Nonattainment Area for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the Motor Vehicle Emissions Budgets (MVEBs) in the Delaware portion of the Philadelphia-Wilmington-New Jersey 1997 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) Attainment Plan, submitted as a State Implementation Plan (SIP) revision on April 25, 2012 by the Delaware Department of Natural Resources and Environmental Control (DNREC), are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Delaware must use the out-year 2012 MVEBs from the April 25, 2012 Attainment Plan for future conformity determinations for the 1997 PM_{2.5} NAAQS.

DATE: This final rule is effective on [insert date 15 days from date of publication].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region III sent a letter to the Delaware Department of Natural Resources and Environmental Control on November 7, 2013 stating that EPA has found that the MVEBs in the Attainment Plan for budget year 2009 and out-year 2012, submitted on April 25, 2012 by DNREC, are adequate for transportation conformity purposes. As a result of EPA's finding, the State of Delaware must use the out-year 2012 MVEBs from the April 25, 2012 Attainment Plan for future conformity determinations in the Delaware portion of the Philadelphia-Wilmington-New Jersey 1997 PM_{2.5} NAAQS nonattainment area. Receipt of the submittal was announced on EPA's transportation conformity website. No comments were received. The findings letter is available at EPA's conformity website: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. The adequate direct PM and nitrogen oxides (NO_x) MVEBs are provided in Table 1.

Table 1. Delaware Portion of the Philadelphia-Wilmington-New Jersey 1997 PM_{2.5} NAAQS Attainment Demonstration MVEBs for direct PM and NO_x

Budget Years	Mobile Vehicle Emissions Budget for Direct PM-Tons Per Year	Mobile Vehicle Emissions Budget for NO _x -Tons Per Year
2009	257	8,448
2012	199	6,273

Transportation conformity is required by section 176(c) of the Clean Air Act (CAA). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). EPA described the process for determining the adequacy of submitted SIP budgets in a July 1, 2004 preamble starting at 69 FR 40038 and used the information in these resources in making this adequacy determination. Delaware did not provide emission budgets for sulfur dioxide (SO₂), volatile organic compounds (VOCs), or ammonia for the Delaware portion of the Philadelphia-Wilmington-New Jersey nonattainment area because it concluded that emissions of these precursors from motor vehicles are not significant contributors to the area's PM_{2.5} air quality problem. The transportation conformity rule provision at 40 CFR 93.102(b)(2)(v) indicates that conformity does not apply for these precursors, due to the lack of MVEBs for these precursors and the State's conclusion that motor vehicle emissions of SO₂, VOCs, and ammonia do not contribute significantly to the area's PM_{2.5} nonattainment problem. This provision of the transportation conformity rule predates and was not disturbed by the January 4, 2013 decision in the litigation on the PM_{2.5} implementation rule.¹ EPA has preliminarily concluded that the State's decision to not include budgets for SO₂, VOCs, and ammonia is consistent with the requirements of the transportation conformity rule. That decision does not affect EPA's adequacy finding for the submitted direct PM and NO_x MVEBs for the Delaware portion of the Philadelphia-Wilmington-New Jersey nonattainment area.

¹ EPA issued conformity regulations to implement the 1997 PM_{2.5} NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005, respectively). Those actions were not part of the final rule recently remanded to EPA by the Court of Appeals for the District of Columbia in *NRDC v. EPA*, No. 08-1250 (Jan. 4, 2013), in which the Court remanded to EPA the implementation rule for the PM_{2.5} NAAQS because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4 of Part D of Title I of the CAA, rather than solely under the general provisions of subpart 1.

Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if EPA finds a budget adequate, the SIP could later be disapproved. The finding and the response to comments are available at EPA's conformity website:

<http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 25, 2013.

W. C. Early,
Acting Regional Administrator,
Region III.

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